

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PETITION TO REMOVE ANDERSON OIL AND)	
GAS AS A REGULATED INTRASTATE GAS)	CASE NO. 90-301
PIPELINE UTILITY IN KENTUCKY)	

O R D E R

This matter arises upon the October 1, 1990 petition of Anderson Oil and Gas ("Anderson") requesting the Commission declare that Anderson is not a utility within the meaning of KRS 278.010. As further grounds for the request Anderson states that given the nature of its operations, Anderson will be unable to comply with the mandate of 49 CFR Part 199, regarding the recently enacted U.S. Department of Transportation Drug Testing Program.

According to Anderson, it relies exclusively on third-party contractors for certain maintenance and emergency functions. Anderson believes it unreasonable and beyond its capabilities to ensure that each and every third-party contractor with whom it does business, whether on a routine or emergency basis, complies with the requirements of 49 CFR Part 199. It is for this reason that Anderson seeks a declaration from this Commission that it is not a utility subject to jurisdiction in order to be relieved of the requirements of the federal drug testing program.

After consideration of Anderson's petition and being otherwise sufficiently advised, the Commission finds that Anderson's request must be denied for the following reasons. 49 CFR Part 199 was promulgated by the U.S. Department of Transportation, Office of Pipeline Safety, pursuant to authority granted it under the Natural Gas Pipeline Safety Act of 1968, as amended (49 USC 1671, et seq.). Part 199, by its terms, applies to any entity subject to the requirements of Parts 192, 193, or 195 of 49 CFR. As an intrastate pipeline facility used to transport natural gas, Anderson is subject to the requirements of Part 192 and, accordingly, Part 199.

This Commission has no authority, by statute or otherwise, to waive provisions enacted by an agency of the federal government. As the character of service being provided by Anderson, i.e., intrastate transportation of natural gas, has not changed, Anderson remains jurisdictional to this Commission and must comply with applicable provisions of KRS Chapter 278 and Commission regulations.

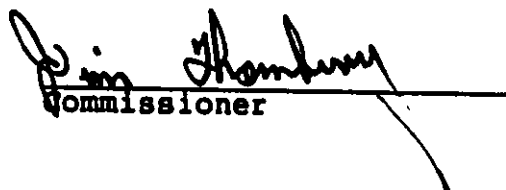
IT IS THEREFORE ORDERED that for the foregoing reasons this case be and it hereby is dismissed with prejudice.

Done at Frankfort, Kentucky, this 18th day of December, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director